

July 3, 2001

VIA HAND DELIVERY

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, Massachusetts 02110

RE: D.T.E. 01-21, Western Massachusetts Electric Company's Reply Comments

Dear Secretary Cottrell:

On May 25, 2001, the Department of Telecommunications and Energy ("Department") issued an order instituting a rulemaking for the purpose of amending 220 C.M.R. 29.07 with respect to the determination of a residential customers rental or property owner's responsibility in non-minimal use violations pursuant to 105 C.M.R. §§ 410.354 and/or 410.254 of the State Sanitary Code ("Sanitary Code"). On June 22, 2001, Western Massachusetts Electric Company ("WMECO" or the "Company") filed its initial comments. A public hearing was held at the Department's offices on June 26, 2001. WMECO participated in that public hearing. During the public hearing, the Department requested that participants file recommendations on proposals for alternative procedures for calculating a residential rental property owner's responsibility in non-minimal use sanitary code violations. This is WMECO's response to that request.

The Company's Position

The proposed regulation places utilities squarely in the middle of a non-minimal use dispute between landlords and tenants by requiring the utility to calculate the amount of the landlord's retroactive responsibility for a tenant's electric bill based on the actual usage attributable to the code violation. Although the current regulation has the utilities involved in disputes between landlords and tenants, the utilities' role is more limited. The current procedure gives certainty to the utility, landlord, and customer, and does not put the utility in the position of arbiter.

Additionally, the costs necessary for utilities to investigate and process the sanitary code violation could create higher rates for all customers. This seems an unjust cost for customers in general, when the costs of a sanitary code violation should be borne by the property owner.

The Department's proposed changes should not be implemented until consistent administrative practices are developed to allow objective determination of the costs of operating an appliance, apparatus or service wrongfully connected to a tenant customer's meter. WMECO recommends that the Department retain the present regulations in place until such practices are fully developed.

Procedures for Calculating Usage

As WMECO noted in its initial comments, estimating energy usage is difficult because:

- ?? Citations from the various city or town wiring inspectors often do not provide sufficient information upon which to base an estimate. It is sometimes difficult to know even if the violation is a minimal or non-minimal use without further investigation.
- ?? Field investigations may be required to determine the type of violation involved, the appliances present, the frequency of use and how the appliance was used. These type of investigations are time consuming and, if complex, require a licensed electrician.

The Company proposes that, going forward, a simple checklist be developed for use by the town wiring inspectors to identify appliances, apparatus or services wrongfully connected to a tenant customer's meter. This checklist would serve as the input to an automated spreadsheet calculation which would be used to calculate an estimated monthly cost based on the Company's own rates and standardized assumptions for monthly hours of use and appliance consumption per hour. The standardized assumptions and exact calculation methodology and spreadsheet coding should be determined through a collaborative effort of utilities, towns, consumer groups and the Department. The Department would use this estimate in apportioning the retroactive bill between an owner and a tenant. In this way, the Department would retain the exclusive decision-making authority and discretion in these matters. As indicated above, the Department should set aside the proposed regulations until the collaborative effort develops the required standards and calculation.

The Company appreciates the opportunity to comment further and looks forward to working with the Department and other involved parties.

Very truly yours,

Anne Bartosewicz

Mary L. Cottrell, Secretary

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Manager, Regulatory Policy-
Massachusetts